

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CHRISTOPHER MCCOY,

Plaintiff,

v.

CV 09-1016 GBW/DJS

FEDERAL GOVERNMENT,
and others,

Defendant(s).

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court on Christopher McCoy's complaint and motion to proceed *in forma pauperis*. Docs. 1 & 2. Plaintiff, the only party presently before the Court, has consented to the undersigned conducting all proceedings in this case. Doc. 4.

The affidavit in support of the *in forma pauperis* motion indicates that McCoy is indigent. Doc. 2. Therefore, the Court authorizes the filing of the complaint without payment of the filing fee. See 28 U.S.C. § 1915(a)(1).

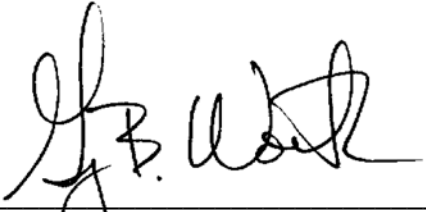
A case that has been filed *in forma pauperis* must be dismissed if it is frivolous or fails to state a claim upon which relief may be granted. *Id.* § 1915(e)(2)(B)(i), (ii). To state a claim upon which relief may be granted, a complaint must contain sufficient facts to make a claim "plausible on its face." *Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955, 1974 (2007). In other words, the "allegations must be enough to raise a right to relief above the

speculative level.” *Id.* at 1965. When, as here, a plaintiff is proceeding *pro se*, the complaint must be liberally construed and held to less stringent standards than formal pleadings drafted by lawyers. *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007).

McCoy used the Court’s form for civil rights complaints pursuant to 42 U.S.C. § 1983. However, the allegations in the complaint are not sufficient to raise a right to relief above the speculative level. The body of the complaint names the defendants as “Federal Government and Others.” *Doc. 1*. The only allegation in the complaint states, “I need to get my money back.” *Id.* Additionally, the request for relief is “Get my money back.” *Id.*

In short, McCoy has not named a valid person or entity as a defendant, has not identified a violation of a constitutional right, has not stated any facts to support a claim, and has not sought any cognizable relief. Accordingly, this case must be dismissed for failure to state a claim.

IT IS THEREFORE ORDERED that the motion to proceed *in forma pauperis* is granted, and this case is dismissed without prejudice.


UNITED STATES MAGISTRATE JUDGE